

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-11321-WGY

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ENGIDASHET W. GEBRE,

Plaintiff,

vs.

CONDOLLEEZA RICE,  
as Secretary of State, and  
DEPARTMENT OF STATE,

Defendants.

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**PLAINTIFF'S MOTION FOR EXTENSION OF TIME TO FILE A BRIEF IN  
OPPOSITION TO DEFENDANTS' MOTION DISMISS  
& PLAINTIFF'S MOTION IN OPPOSITION TO THE  
DEFENDANTS' MOTION TO DISMISS**

Plaintiff, Engidashet W. Gebre, through his attorney, respectfully moves this Honorable Court to extend the time for the filing of his brief in opposition to Defendants' Motion to Dismiss until **May 8, 2006**. In the alternative, Plaintiff also states that Defendants' Motion is time barred by this Honorable Court's Scheduling Order. As the reasons for his Motion, Plaintiff puts forth the following arguments:

Plaintiff requests that his motion for an extension of time be granted because his attorney received the Defendants' Motion, Documents 7 & 8, which was electronically transmitted on April 24, 2005. Plaintiff states that his attorney was not able to check the electronic mail, which contained said Motion during the week of April 14-24th. He further states that because

Defendants' Motion is a dispositive one<sup>1</sup>, if his Motion is denied, he will forever be denied an opportunity to present his case to this Court. Plaintiff also states that the Defendants' attorney, Anton P. Giedt has stated that he does not oppose Plaintiff's motion for an extension of time.

In the alternative, and in addition to above argument, Plaintiff also states that Defendants' motion is untimely and is in contravention with the Court's order. Rule 16(b) of the Federal Rules of Civil Procedure states in pertinent part that "a Schedule shall not be modified except upon a showing of good cause." Pursuant to this Court's CASE MANAGEMENT SCHEDULING ORDER, entered on 11/15/2005, Doc. 6, all "dispositive motions" were due in Court by April 7, 2006. Defendants' Motion was filed with this Court on April 14, 2006, as documents 7 and 8. Therefore, the Motion should be denied.

### **CONCLUSION**

Plaintiff is moving for an order by this Honorable Court to extend the time for the filing of his brief in opposition to Defendants' Motion to Dismiss. In the alternative, Plaintiff asks that Defendants' Motion be denied due to its untimeliness.

Dated: April 28, 2006  
Respectfully submitted,  
Engidashet W. Gebre,  
by his attorney,

/S/ Benjamin B. Tariri

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128A Tremont Street  
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<sup>1</sup> Defendants' Motion is premised on lack of jurisdiction and failure to state a claim.

***CERTIFICATE OF SERVICE***

I, Benjamin B. Tariri, Esquire, hereby certify  
that I have this 28<sup>th</sup> day of April, 2006,  
served a true copy of the above document  
upon the Defendants' attorney of record via electronic filing.

/S/ Benjamin B. Tariri \_\_\_\_\_

**ATTORNEY CERTIFICATION PURSUANT TO FED. R. CIV. P. 37 (a) (2) AND LOCAL  
RULES 7.1 (A) (2) AND 26.2(C)**

I, Benjamin B. Tariri, Esq., hereby certify that on April 27, 2006, in good faith, I conferred with Anton P. Geidt, attorney for Defendants, to extend the time for filing a brief in opposition to the Defendants' Motion to Dismiss. The Defendants' attorney did not object to my request for an extension.

/S/ Benjamin B. Tariri, Esq.

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